

# CRS Report for Congress

## Comparison of “Wounded Warrior” Legislation: H.R. 1538 as Passed in the House and Senate

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Sarah A. Lister and Sidath Viranga Panangala  
Domestic Social Policy Division

Richard A. Best Jr.  
Foreign Affairs, Defense, and Trade Division



**Prepared for Members and  
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## Summary

This report compares certain provisions in legislation that has been considered by Congress concerning programs, services (including medical care), and benefits for injured military servicemembers returning from combat theaters. Relevant provisions are compared in H.R. 1538 as passed by the House, titled the *Wounded Warrior Assistance Act of 2007*, and as passed by the Senate, titled the *Dignified Treatment of Wounded Warriors Act*.

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## Overview

This report compares certain provisions in legislation that has been considered by Congress concerning programs, services (including medical care), and benefits for injured military servicemembers returning from combat theaters. Relevant provisions are compared in H.R. 1538 as passed by the House, titled the *Wounded Warrior Assistance Act of 2007*, and as passed by the Senate, titled the *Dignified Treatment of Wounded Warriors Act*.

The Senate passed H.R. 1538 in July 2007, as an amendment (S.Amdt. 2402) in the nature of a substitute. The Senate reported a slightly different version of S.Amdt. 2402 as S. 1606, the Dignified Treatment of Wounded Warriors Act, in June 2007. The Senate bill, as passed, contains three titles: *Title I*, Wounded Warrior Matters; *Title II*, Veterans Matters; and *Title III*, Fiscal Year Increase in Military Basic Pay.

The House passed H.R. 1538 in March 2007. A slightly different version of that bill was also passed by the House as Title XIV of H.R. 1585, the National Defense Authorization Act for FY2008, in May 2007. The House bill, as passed, contains three titles: *Title I*, Wounded Warrior Assistance; *Title II*, Studies and Reports; *Title III*, General Provisions.

**Table 1** of this report presents descriptive information for each bill, as passed. **Table 2** of this report compares provisions in the two bills that require coordination between the Department of Defense (DOD) and the Department of Veterans Affairs (VA) — including provisions that would establish specific mechanisms to facilitate such coordination — as well as provisions that would have direct effects upon both departments. Table 2 does not include provisions that are almost solely within the purview of one department, and require only consultation with the Secretary of the other department. **Table 3** compares provisions affecting only the Department of Defense. Finally, *provisions affecting only the Department of Veterans Affairs are summarized*. These provisions are primarily found in Title II of the Senate bill, without comparable provisions in the House bill. A few VA-specific provisions in Title I of the Senate bill, and in the House bill, are also described.

Unless otherwise noted, references in this report and in the tables to activities of “DOD” or “VA” are activities to be carried out by the Secretary of the stated department. The following acronyms and abbreviations are used:

**CBO:** Congressional Budget Office

**DD-214:** Department of Defense form, Certificate of Release or Discharge from Active Duty

**DD-2808:** Department of Defense form, Report of Medical Examination, used to determine medical fitness for enlistment, induction, appointment and retention.

**DD-2697:** Department of Defense form, Report of Medical Assessment, used for servicemembers separating or retiring from active duty.

**GAO:** Government Accountability Office

**MTF:** Military Treatment Facility

**NAS:** National Academy of Sciences

**OEF:** Operation Enduring Freedom

**OIF:** Operation Iraqi Freedom

**PEBLO:** Physical Evaluation Board Liaison Officer

**PDES:** the military Physical Disability Evaluation System

**PTSD:** Post-traumatic Stress Disorder

**SGLI:** Servicemembers’ Group Life Insurance

**TBI:** Traumatic Brain Injury

**TDRL:** Temporary Disability Retired List

**VASRD:** Veterans Administration Schedule for Rating Disabilities

**WRAMC:** Walter Reed Army Medical Center

For additional information, see Congressional Research Service (CRS) reports regarding *Health Care for Military Personnel and Veterans* and *Military Personnel and Compensation* at [[http://apps.crs.gov/cli/level\\_2.aspx?PRDS\\_CLI\\_ITEM\\_ID=3](http://apps.crs.gov/cli/level_2.aspx?PRDS_CLI_ITEM_ID=3)]. Specific reports of interest include:

- RL33991, *Disability Evaluation of Military Servicemembers*;
- RL33993, *Veterans Health Care Issues*;
- RS22366, *Military Support to the Severely Disabled: Overview of Service Programs*;
- RL33537, *Military Medical Care: Questions and Answers*;
- RL33323, *Veterans Affairs: Benefits for Service-Connected Disabilities*;
- RL34063, *Veterans’ Medical Care: FY2008 Appropriations*;
- RL34055, *Walter Reed Army Medical Center: Realignment Under BRAC 2005 and Options for Congress*;
- RL33571, *The FY2007 National Defense Authorization Act: Selected Military Personnel Policy Issues*;
- RL33446, *Military Pay and Benefits: Key Questions and Answers*;
- RL33449, *Military Retirement, Concurrent Receipt, and Related Major Legislative Issues*.

**Table 1. Description of H.R. 1538, Senate- and House-passed Versions**

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>Short Title</b>	<i>Dignified Treatment of Wounded Warriors Act</i>	<i>Wounded Warrior Assistance Act of 2007</i>
<b>Introduced</b>	7/25/2007	3/15/2007
<b>Status</b>	Agreed to in Senate by Unanimous Consent, 7/25/2007, as S.Amdt. 2402	Passed in House by unanimous roll call vote, 3/28/2007
<b>Bill Titles and Subtitles</b>	<i>Title I, Wounded Warrior Matters:</i> - Subtitle A: Policy on Care, Management, and Transition of Servicemembers with Serious Injuries or Illnesses - Subtitle B: Health Care - Subtitle C: Disability Matters - Subtitle D: Improvement of Facilities Housing Patients - Subtitle F: Other Matters <i>Title II, Veterans Matters</i> <i>Title III, Fiscal Year Increase in Military Basic Pay</i>	<i>Title I, Wounded Warrior Assistance</i> <i>Title II, Studies and Reports</i> <i>Title III, General Provisions</i>
<b>Committee Reports</b>	No Senate report.	H.Rept. 110-68, <i>Wounded Warrior Assistance Act of 2007</i> , Report of the House Committee on Armed Services, March 23, 2007, 39 pp.
<b>Key definitions</b>	<p>§101. <i>Covered member of the Armed Forces</i> (henceforth “covered servicemember”) means a member of the Armed Forces, including a member of the National Guard or Reserve, who is undergoing medical treatment, recuperation, or therapy, is otherwise in medical hold or medical holdover status, or is otherwise on the Temporary Disability Retired List (TDRL) for a serious injury or illness.</p> <p><i>Serious injury or illness</i> is defined in §101, with respect to provisions in Title I, in the case of a member of the Armed Forces, to mean “an injury</p>	<p>§ 2. <i>Recovering service member</i> means a member of the Armed Forces, including a member of the National Guard or Reserve, who is undergoing medical treatment, recuperation, or therapy, or is otherwise in medical hold or holdover status, for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces.</p> <p>§ 2. The term <i>medical care</i> includes mental health care.</p>

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
	<p>or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating." <i>Severe injury or illness</i> is defined for the purposes of §121 as "any serious injury or illness that is assigned a disability rating of 30 percent or higher under the schedule for rating disabilities in use by the Department of Defense."</p>	
<b>Notes</b>	<p>Most of the required coordinating activities in Title I are to be developed through a joint comprehensive policy process to be undertaken by the Secretaries of DOD and VA pursuant to §111. The bill lays out a number of specific responsibilities or activities that must be addressed in the policy process, but generally does not stipulate how those responsibilities or activities are to be addressed.</p>	<p>The bill emphasizes DOD programs, with fewer coordinating or transition provisions with VA. The bill includes numerous specific directives to DOD, such as specific staffing ratios.</p>



**Table 2. Provisions Requiring DOD and VA Coordination**

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>Joint Planning and Policy Development</b>		
<b>Required policy process</b>	<p>§§111(a) and 111(c). Requires, not later than Jan. 1, 2008, and updated at least annually, DOD and VA, in consultation with heads of other relevant federal departments and agencies, to jointly develop and implement a comprehensive policy on the care and management of covered servicemembers. Scope shall include care and management, medical and disability evaluation, return to duty when appropriate, and transition from DOD to VA; and consider findings of several listed committees, task forces and other sources.</p> <p>§112. In implementing provisions in §111, including reporting provisions, DOD and VA shall take into account and fully address any unique specific needs of women members of the Armed Forces and women veterans.</p> <p>§134. DOD and VA shall, within 120 days after enactment, jointly develop a comprehensive policy to address the treatment and care needs of female members of the Armed Forces and veterans who experience mental health problems and conditions, including PTSD. The policy shall take into account and reflect the results of the review required by subsection (a).</p>	No comparable provisions.
<b>Required reports on policy process</b>	<p>§111(e). Joint DOD/VA report to congressional committees re: development of the policy required by this section, not later than Jan. 1, 2008, and reports on required updates.</p> <p>§111(f). GAO report regarding implementation of this section, within six</p>	No comparable provision.

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Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
	months of enactment and annually thereafter.	
<b>New Positions or Entities</b>		
<b>DOD Oversight Board for Wounded Warriors</b>	No comparable provision.	§113. Establishes an <i>Oversight Board for Wounded Warriors</i> to provide advice and consultation to the Secretary of Defense and congressional committees. The Secretary of VA is involved in selecting members of the Board.
<b>Defense-wide Ombudsman Office</b>	§111(d)(1)(Q). Included in development of joint comprehensive policy, requires the establishment of a <i>Defense-wide Ombudsman Office</i> within the Office of the Secretary of Defense to provide oversight of the ombudsman offices in the military departments and policy guidance to such offices with respect to providing assistance to, and answering questions from, covered servicemembers and their families. VA transition issues are not explicitly mentioned.	§102. Establishment of <i>Defense-wide Ombudsman Office</i> within the Office of the Secretary of Defense, with responsibilities to include developing policy guidance regarding transfer of servicemembers to the care of VA.
<b>Interagency Program Office for a Joint Electronic Health Record</b>	§141(b). Establishes a joint entity of the DOD and the VA, the <i>Department of Defense-Department of Veterans Affairs Interagency Program Office for a Joint Electronic Health Record</i> ; establishes leadership, membership, staffing, funding, other matters.	No comparable provision.
<b>Army Wounded Warrior Battalion</b>	No comparable provision.	§109. The Secretary of the Army shall establish a pilot program, known as the <i>Army Wounded Warrior Battalion</i> , at an appropriate active duty base with a major medical facility, based on the Wounded Warrior Regiment program of the Marine Corps. When applicable, the Battalion shall track and assist members of the Armed Forces in an outpatient status who are still in need of medical treatment through medical retirement and subsequent transition into the VA medical system.

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Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>Reviews and Evaluations</b>		
<b>Comprehensive evaluation</b>	§111(b). Requires, within 90 days of enactment, the Secretaries of DOD and VA to, jointly and separately, review all policies and procedures of each department relevant in developing the aforementioned policy.	No comparable provision.
<b>Polytrauma Liaison Officer/ Non-Commissioned Officer program</b>	No comparable provision.	§206. DOD shall conduct an evaluation of the Polytrauma Liaison Officer/Non-Commissioned Officer program, which is the program operated by each of the military departments and the VA for the purpose of: (1) assisting in the seamless transition of servicemembers from DOD to VA health care systems; and (2) expediting the flow of information and communication between MTFs and VA Polytrauma Centers. DOD shall report the findings of such evaluation to Congress within 90 days of enactment.
<b>Uniform or Single Physical/Medical Exam</b>		
	<p>§111(d)(2)(A). The joint DOD/VA policy process requires the development of uniform processes, procedures, and standards for medical evaluations of covered servicemembers, including standard processes, criteria and timelines for medical evaluation, and dissemination of such information to servicemembers and families. There is no additional mention in this section of the effect of this provision on VA physical / medical examinations.</p> <p>§111(d)(2)(E). The joint DOD/VA policy process requires the development, when appropriate, of a single physical exam to meet the requirements of both DOD and VA for covered servicemembers who are being retired, separated, or released from military service.</p>	§111(b). Uniform Separation and Evaluation Physical - The joint separation and evaluation physical, (as described in DD-2808 and DD-2697), shall be used by DOD in connection with the medical separation or retirement of all members of the armed forces. The VA shall adopt the same separation and evaluation physical.

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>Interoperable Health Records, Patient Tracking Systems</b>		
<b>Establishment of new joint entity (NOTE: this provision also discussed above in section “New Positions or Entities”)</b>	§141(b). Establishes a joint entity of the DOD and the VA, the <i>Department of Defense-Department of Veterans Affairs Interagency Program Office for a Joint Electronic Health Record</i> ; establishes leadership, membership, staffing, funding, reporting requirements, and other matters. The Office shall develop and prepare for deployment, not later than September 30, 2010, a joint electronic health record to be used by both departments in the provision of medical care and treatment to members of the Armed Forces and veterans. The joint electronic health record shall comply with applicable interoperability standards, implementation specifications, and certification criteria (including for the reporting of quality measures) of the Federal Government. Requires DOD and VA to contribute equally to the costs of the Office in FY2008 and thereafter (up to \$10 million from each department for FY2008).	No comparable provision.
<b>Interoperable health records</b>	§141(a). The Secretaries of DOD and VA shall jointly: (1) develop and implement a <i>joint electronic health record</i> (defined) for use by the departments; and (2) accelerate the exchange of health care information in order to support the delivery of health care by both departments. Within six months of enactment and every six months thereafter until the completion of the implementation of the joint electronic health record, GAO shall report to Congress regarding its assessment of the progress of the departments in developing and implementing the joint electronic health record. (See Table note regarding CBO cost estimate for a comparable provision.)	§111(c). DOD and VA shall jointly establish and implement a process to ensure an interoperable, bi-directional, real-time exchange of medical information. (See Table note regarding CBO cost estimate for this provision.)
<b>Access to medical records, transfer of</b>	§111(d)(2)(E). The joint DOD/VA policy process requires the development of policies to assure that VA has access to military health	No comparable provision.

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>records</b>	<p>records for covered servicemembers who are receiving care, or are expected to receive care, in VA facilities.</p> <p>§163. DOD and VA shall jointly develop and implement a mechanism to provide for the electronic transfer from DOD to VA of any DOD documents (including form DD-214) necessary to establish or support the eligibility of a member of the Armed Forces for VA benefits for which the member is eligible at the time of the retirement, separation, or release of the member from the Armed Forces.</p>	
<b>Patient tracking systems</b>	<p>§111(d)(1)(L). The joint DOD/VA policy process requires the development of a tracking system for covered servicemembers within the DOD system.</p> <p>§111(d)(2)(D). The joint DOD/VA policy process requires the development of processes, procedures and standards regarding the transition of covered servicemembers from care and treatment through the DOD to care and treatment through the VA, including procedures for patient tracking during the transition.</p>	<p>§208. Requires DOD to study the feasibility of establishing a patient tracking system — jointly among the service branches, but not involving VA — and report to Congress within 180 days regarding its findings.</p>
<b>Disability Evaluation</b>		
<b>System evaluation and policy development</b>	<p>§111(d)(2)(B). The joint DOD/VA policy process requires the development of processes, procedures, and standards for physical disability evaluations of covered servicemembers, including (1) development of a non-adversarial process in both departments; (2) to the extent feasible, procedures to eliminate unacceptable ratings discrepancies among the DOD service branches and between DOD and VA; (3) to the extent feasible, continued use by DOD of the VASRD; and (4) additional standards for timeliness, personnel qualifications,</p>	<p>§203. DOD and VA shall conduct a joint evaluation of their respective disability evaluation systems, for the purpose of: (1) improving the consistency of the two systems; and (2) evaluating the feasibility of, and potential options for, consolidating them. In their evaluation, DOD and VA shall consider the findings of the Veterans' Disability Benefits Commission, and report to Congress regarding their evaluation within 180 days after the date of publication of the Commission's findings.</p>

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
	caseloads and related matters.	
<b>Requirements and limitations on DOD determinations of disability</b>	<p>§152. DOD shall, to extent feasible in making a determination of disability of a member of the armed forces for purposes of this chapter, utilize the VASRD. DOD may not deviate from the schedule or any such interpretation of the schedule, except that in making such a determination, DOD may utilize in lieu of the VASRD such criteria as the Secretaries of Defense and Veterans Affairs may jointly prescribe for purposes of this subsection, if the utilization of such criteria will result in a determination of a greater percentage of disability than would be otherwise determined through the utilization of the VASRD. In making a determination of the rating of disability of a member of the armed forces for purposes of this chapter, the DOD shall take into account all medical conditions, whether individually or collectively, that render the member unfit to perform the duties of the member's office, grade, rank, or rating.</p>	No comparable provision.
<b>Pilot programs</b>	<p>§154. DOD shall, in consultation with VA, carry out pilot programs with respect to the DOD disability evaluation system. Pilot programs are as follows:</p> <p><i>(1) Disability determinations by DOD using VA assigned disability ratings:</i> Under this pilot program, upon a determination by the DOD (the Secretary of the military department concerned) that the member is unfit for duty, the VA shall conduct an evaluation of the member for physical disability, and assign the member a rating of disability, according to the VASRD, based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and the DOD (the Secretary of the military department concerned) shall make the determination of disability regarding the member utilizing the rating of disability assigned by the VA.</p> <p><i>(2) Disability determinations using joint DOD/VA assigned disability</i></p>	No comparable provision.

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
	<p><i>ratings:</i> Under this pilot program, upon a determination by the DOD (the Secretary of the military department concerned) that the member is unfit for duty, the DOD (the Secretary of the military department concerned) shall provide for the joint evaluation of the member for disability by the DOD (the Secretary of the military department concerned) and the VA, including the assignment of a rating of disability for the member, according to the VASRD, based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and shall make the determination of disability regarding the member utilizing the rating of disability assigned in this manner.</p> <p>This section also requires DOD to establish an information clearinghouse regarding disability, and lays out certain additional requirements for reporting and other matters.</p>	
<b>TBI and PTSD Programs</b>		
	<p>§133(a) and (b). Centers of Excellence for TBI and for PTSD are to be established by DOD. The Secretary of Defense is authorized to enter into partnerships, as appropriate, with the VA, to further the research efforts of the centers.</p> <p>§134. DOD and VA shall jointly conduct a review of the need for mental health treatment and services, and the efficacy and adequacy of existing mental health treatment programs and services, for female members of the Armed Forces and veterans. DOD and VA shall report to Congress regarding such review within 90 days of enactment.</p>	<p>§115. Requires DOD to conduct, in consultation with VA and others, certain activities to address PTSD, namely: (1) development of PTSD prevention plans; and (2) studying the feasibility of developing a working group to research and develop evidence-based approaches. Also requires DOD to develop a peer-reviewed PTSD research program within the Defense Health Program.</p>
<b>Other Transition Provisions</b>		
<b>VA benefits teams at</b>	§111(d)(2)(D). The joint DOD/VA policy process requires the	§111(d). DOD and VA shall jointly determine optimal sites for

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>MTFs</b>	development of standards for the optimal location of DOD and VA liaison and case management personnel at MTFs and related facilities (defined).	co-location of VA benefits teams at MTFs and related facilities (defined).
<b>Standards and processes for the transition of covered servicemembers from DOD to VA</b>	<p>§111(d)(2)(D). The joint DOD/VA policy process requires the development of processes, procedures and standards regarding the transition of covered servicemembers from care and treatment through the DOD to care and treatment through the VA, including (1) a uniform policy to assure continuity and quality of care; (2) procedures for patient tracking during the transition, and cooperative case management; (3) procedures for DOD to notify VA when the Physical Disability Evaluation Process begins for a covered servicemember; (4) procedures and timelines re: enrollment or application for various VA benefits; (5) standards for integrated medical care management, including assignment of VA personnel to DOD facilities; and (6) standards for the development of detailed individual transition plans.</p> <p>§163. The Secretaries of DOD and VA shall jointly develop and implement a mechanism to provide for the electronic transfer from DOD to VA of any DOD documents (including form DD-214) necessary to establish or support the eligibility of a member of the Armed Forces for VA benefits.</p>	§111(a). Requires the Secretary of Defense to: (1) ensure that each affected servicemember, upon separation or retirement, receives a written transition plan, prior to the date of separation or retirement; and (2) establish a formal process to transfer, prior to the date of separation or retirement, and contingent upon approval of the servicemember, relevant information to the VA. Specifies types of records and other information, including DD-214, member's service record, medical records, and results of a Physical Evaluation Board. Such process shall include a meeting with regard to the servicemember between DOD and VA personnel.
<b>Patient and family satisfaction surveys</b>	§111(d)(2)(E). The joint DOD/VA policy process requires the development of surveys and other mechanisms to measure patient and family satisfaction with the provision of care and services to covered servicemembers by DOD and VA.	No comparable provision.
<b>Additional Required Studies and Reports</b>		



Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
	<p>§191. DOD shall contract with NAS to study the physical and mental health and other readjustment needs of members and former members of the Armed Forces who are deployed in OIF or OEF, and their families as a result of such deployment. NAS shall have access to DOD and VA records to conduct the study.</p> <p>Not later than 90 days after the receipt of a report from NAS, DOD and VA shall jointly develop a final DOD/VA plan to address NAS findings and recommendations, and submit such plan to Congress.</p> <p>Not later than 45 days after the submittal to Congress of the final DOD/VA plan, GAO shall submit to Congress a report assessing the contents of such report.</p>	No comparable provision.

**Note:** §111 of House-passed H.R. 1538 is comparable to §110 of the House-reported version. CBO published a cost estimate of the House-reported version, noting the following with respect to the requirement for DOD and VA to implement a single medical information system: “If a new computer system would have to be created by the departments to enable the transfer of medical information, it could cost billions of dollars. If improvements to current systems would suffice, the cost would be much smaller.” CBO, “H.R. 1538, Wounded Warrior Assistance Act of 2007, Cost estimate for the bill as ordered reported by the House Committee on Armed Services on March 20, 2007,” March 23, 2007, at [<http://www.cbo.gov/ftpdocs/79xx/doc7905/hr1538.pdf>].

**Table 3. Provisions Affecting only the Department of Defense**

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>Report on reduction in disability ratings</b>	§111(d)(3). DOD to report on number of instances in which a disability rating was reduced on appeal during the period October 7, 2001, to September 30, 2006.	No comparable provision.
<b>Extended MTF medical care</b>	§121. Former servicemembers severely injured since October 7, 2001 to be made eligible for medical treatment, including treatment for PTSD and TBI), including treatment in DOD medical treatment facilities, for three years which can be extended to five years. DOD shall reimburse covered services provided to these servicemembers or former servicemembers (as well as travel expenses of an attendant who accompanies the individual to non-local medical treatment.	No comparable provision.
<b>Travel reimbursement</b>	§122. Severely wounded retirees and their authorized escorts to be reimbursed for travel expenses to MTFs.	No comparable provision.
<b>Medical care for family members</b>	§126. A family member of a servicemember on invitational orders, while caring for the servicemember and receiving <i>per diem</i> , shall be eligible for space-available medical care and for job placement services.	No comparable provision.
<b>Extended benefits under Tricare</b>	§127. DOD to establish regulations to authorize extension of Tricare benefits to primary caregivers of severely wounded servicemembers.	No comparable provision.
<b>TBI and PTSD</b>	§131. DOD to provide within 180 days of enactment, in consultation with the VA, comprehensive plans to prevent, diagnose, mitigate, treat and otherwise respond to TBI and PTSD. Plans to include provisions for making injured servicemembers aware of options for different treatments.	No comparable provision.
<b>Medical tracking</b>	§132. DOD shall establish a protocol for predeployment assessment and	§208. DOD to study feasibility of developing joint soldier tracking

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>system</b>	documentation of cognitive functioning of servicemembers. The protocol shall permit differential diagnosis of TBI in servicemembers returning from combat. Up to three pilot programs to be conducted. \$3 million authorized for pilot programs.	system for recovering servicemembers that can be accessed by servicemembers and family. The study would determine whether the tracking system can be designed to ensure that commanders of medical facilities can track appointments of patients to ensure they are meeting timelines and other standards; and that servicemembers are able to know when appointments are scheduled and the deadlines of medical evaluation and physical evaluation boards. DOD to report on results of the study within 180 days of enactment.
<b>Centers of Excellence</b>	§133. DOD to establish centers of excellence in the prevention, diagnosis, mitigation, treatment and rehabilitation of TBI and a separate center for PTSD. The centers will undertake research and establish best practices for treatment. A report on the establishment of the centers required within 180 days. \$5 million authorized for each center.	No comparable provision.
<b>Review of health services for female servicemembers</b>	§134. DOD and VA to conduct jointly a review of mental health treatment and services for female servicemembers.	No comparable provision.
<b>Authorizing funds for treatment of TBI and PTSD</b>	§135. \$50 million authorized for improved diagnosis, treatment and rehabilitation of servicemembers with TBI and PTSD of which \$17 million to be available for the DOD Defense and Veterans Brain Injury Center. These amounts are in addition to amounts appropriated for the Defense Health Program. Annual reports required regarding amounts expended on these efforts.	§112. Treasury to establish DOD Medical Support Fund to support medical treatment, care, rehabilitation, recovery of wounded and injured servicemembers. \$50 million is authorized for the fund in FY2008 of which \$10 million is to be transferred from the fund to support the Marine Corps Wounded Warrior Regiment.
<b>Reports</b>	§136. Reports required from DOD within 90 days on compliance with TBI, PTSD and other mental health provisions of P.L. 109-364; annual reports to be required on expenditures by DOD on treatment of TBI and PTSD.	No comparable provision.

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Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>Enhanced authorities to appoint and pay civilian health care professionals</b>	§142. Grants DOD enhanced authority for appointment and pay of civilian health care professionals with reports on strategies elected required six months after enactment.	No comparable provision.
<b>Recommendations for initiatives to address shortages in health care professionals</b>	§143. DOD to submit to congressional committees within 45 days of enactment recommendations for legislative or administrative actions to address shortages in health care professionals, including personnel in the mental health workforce.	No comparable provision.
<b>Presumption of service-connection</b>	§151. Establishes a presumption that disabilities are service-connected if they were not noted at the time of entrance and if the servicemember has served six months (instead of the current requirement of eight years) of active service.	No comparable provision.
<b>DOD use of VA disability schedules</b>	§152. DOD shall “to the extent feasible” use the VA schedule for rating disabilities. In making the determination of rating of disability DOD shall take into consideration all medical conditions that “individually or collectively” render the member unfit to perform the duties of office, grade, rank or rating.	No comparable provision.
<b>Board of review for disability determinations resulting in less than 20% ratings</b>	§153. DOD to establish a board of review to review the disability determinations by Physical Evaluation Boards between September 11, 2001 and December 31, 2009 which resulted in disability ratings of 20 percent disabled or less. The board may recommend to the secretary concerned the issuance of a new disability rating for the individuals concerned (but not a reduction of the previous disability rating).	No comparable provision.
<b>Pilot programs on</b>	§154. DOD, in consultation with the VA, shall carry out pilot programs	No comparable provision.

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>disability evaluations</b>	with respect to the DOD disability evaluation system. Pilot programs to include (1) DOD using VA assigned disability ratings; (2) DOD using joint DOD/VA assigned disability ratings; and (3) DOD to establish a single Internet website for the DOD disability system. The pilot programs are to be completed within one year after their commencement. DOD to submit reports 90 days after enactment, 150 days subsequently, and a final report 90 days after completion of the pilot programs.	
<b>Reports on PDES</b>	§155. DOD to submit reports every 120 days on the implementation of corrective measures with respect to the Physical Disability Evaluation System (PDES).	No comparable provision.
<b>Disability severance pay enhancement</b>	§161. Disability severance pay enhanced.	No comparable provision.
<b>Servicemembers' Group Life Insurance (SGLI)</b>	§162. Upon entry onto active duty servicemembers to designate a fiduciary for receipt of funds in case of mental incapacity or extended loss of consciousness; servicemember may elect to permit a court to designate a fiduciary.	No comparable provision.
<b>Electronic document transfer capabilities mandated</b>	§163. DOD and the VA shall develop and implement mechanism for electronic transfer of DOD documents necessary to establish eligibility for VA benefits at the time of retirement, separation, or release.	No comparable provision.
<b>DOD/GAO report on continuing utility of the TDRL</b>	§164. DOD and the GAO shall submit a report assessing the continuing utility of the temporary disability retired list in satisfying the purposes for which the list was established.	No comparable provision.
<b>Standards for DOD medical facilities and</b>	§171. DOD to establish standards for quarters for medical facilities and facilities used to quarter individuals that may require medical	§202. Housing facilities under the jurisdiction of DOD occupied by recovering servicemembers shall be inspected annually after enactment

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Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>quarters</b>	supervision. Report on steps taken required by December 30, 2007.	by the inspectors general of the regional medical commands.
<b>Reports on measures to correct deficiencies at WRAMC</b>	§172. DOD to submit every 120 days a report on implementation of the Army's action plan to correct deficiencies at Walter Reed Army Medical Center.	No comparable provision.
<b>Feasibility study on expediting new facilities required by WRAMC closure</b>	§173. DOD to carry out assessment of feasibility of accelerating the construction of new facilities required by the closure of WRAMC. By September 30, 2007 DOD shall certify that services and facilities at WRAMC are maintained at the highest possible level until replacement facilities are available. DOD to further certify that closure of WRAMC will not result in a net loss of bed capacity in the National Capital Region.	No comparable provision.
<b>Handbook on benefits for ill or injured servicemembers</b>	§181. DOD shall develop and maintain handbook containing a comprehensive description of benefits available to a servicemember and to family members separated or retired from the Armed Forces as a result of serious illness or injury.	No comparable provision.
<b>National Academy of Sciences study of health and readjustment needs of OIF/OEF servicemembers and veterans</b>	§191. DOD, in consultation with the VA, shall enter into agreement with the National Academy of Sciences for a study on the physical and mental health and other readjustment needs of servicemembers and veterans of Operation Iraqi Freedom or Operation Enduring Freedom and their families. Preliminary phase of the study is to be completed within 180 days; the second phase to be completed within three years of enactment. Within fifteen days of receipt of the study DOD and the VA are to provide a preliminary joint plan to address findings and recommendations; final plan to be developed with 90 days. GAO to submit within 45 days an assessment of the adequacy and sufficiency of	No comparable provision.

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
	the DOD/VA plan.	
<b>Assignment of case workers</b>	No comparable provision.	§101. Servicemembers in outpatient status are to be assigned medical care case managers who will conduct weekly reviews with servicemembers. Each case manager to be assigned no more than 17 outpatients.
<b>Assignment of servicemember advocates</b>	No comparable provision.	§101. Each servicemember in outpatient status to be assigned a service member advocate to communicate with servicemember and family, assisting with oversight of servicemember's welfare and quality of life and to assist in resolving financial, administrative and transitional problems. DOD to establish training program for service member advocates. DOD to conduct semiannual surveys of outpatients to include the servicemember's assessment of the quality and timeliness of medical care, the adequacy of living facilities, the adequacy of case management support, and the fairness and timeliness of the PDES.
<b>Establishment of Toll-free Hot Line</b>	No comparable provision.	§103. Toll-free Hot Line to be established that will be accessible to servicemembers at all times to collect, maintain, and update information on the adequacy, quality and state of repair of medical-related support facilities. Servicemembers will be advised that they can provide information confidentially. DOD to ensure, within 96 hours of a report of deficiencies in adequacy, quality, or state of repair of a medical-related support facility that such deficiencies are investigated and, if substantiated, a plan of action for remediation is implemented.
<b>Notification to Members of Congress of wounded</b>	No comparable provision.	§104. DOD to notify appropriate congressional offices of hospitalization of servicemembers evacuated from a theater of combat. Consent of servicemember is required.

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>constituents</b>		
<b>Servicemember advocates before evaluation boards</b>	No comparable provision.	§105. DOD to ensure that servicemembers appearing before medical evaluation boards have access to a physician or other health care professional who is independent of the evaluation board. The physician shall serve as an advocate for the best interests of the servicemember and provide him/her with advice and counsel regarding the findings and recommendations of the evaluation board.
<b>Limitation on client load of PEBLOs</b>	No comparable provision.	§106. Requires that a physical evaluation board liaison officer (PEBLO) may not be assigned more than 20 patients at any one time. DOD required to establish a standardized training program and curriculum for PEBLOs.
<b>Standardized training for personnel involved in disability evaluations</b>	No comparable provision.	§107. DOD required to establish a standardized training program and curriculum for personnel involved in the disability evaluation system.
<b>Recommendation requested for training in recognizing signs of PTSD</b>	No comparable provision.	§108. Report with recommendations for improvement of training of health care professionals, medical care case managers and servicemember advocates who provide care to recovering servicemembers particularly with regard to recognizing early warning signs of PTSD, suicidal tendencies, or other mental health conditions. DOD to provide annual reports on implementation of recommendations.
<b>Army required to establish Wounded Warrior Regiment Pilot Program</b>	No comparable provision.	§109. Secretary of Army to establish a pilot program at a base with a major medical facility to track and assist outpatients still needing medical treatment who will be assigned to the base. Pilot to be based on Marine Corps Wounded Warrior Regiment. The pilot program to be in effect for



Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
		one year with an evaluation to be submitted to Congress within 90 days after its end.
<b>Temporary Disability Retired List</b>	No comparable provision.	§110. Change in criteria for removal of a servicemember from temporary disability retired list.
<b>Oversight Board for Wounded Warriors</b>	No comparable provision.	§113. Oversight Board for Wounded Warriors to be established, composed of 12 members, two appointed by the Senate majority leader, two by the Senate minority leader; two by the Speaker of the House, two by the House minority leader, two by the Secretary of the VA, two by the Secretary of Defense. All members must have knowledge or experience with the military healthcare system, the disability evaluation system, or the experience of a recovering servicemember. The board will submit annual reports to Congress and DOD.
<b>Outpatient treatment at locales near servicemember's home</b>	No comparable provision.	§114. DOD to expand opportunities for recovering servicemembers to receive outpatient treatment at a military treatment facility closest to the servicemember's home.
<b>Annual report on suitability and quality of medical treatment facilities</b>	No comparable provision.	§201. DOD required to submit an annual report on the adequacy, suitability and quality of medical facilities and medical-related support facilities at each military installation. The report will include information regarding any deficiencies reported through the toll-free hot line.
<b>Study on support services for families</b>	No comparable provision.	§204. DOD shall conduct a study of the provision of support services by DOD for families of recovering servicemembers. Report on results of study to be forwarded to Congress within 180 days of enactment.

Provision	H.R. 1538, Senate Passed	H.R. 1538, House Passed
<b>Designation of TBI Injuries</b>	No comparable provision.	§205. DOD to report on changes taken within DOD to ensure that TBI victims receive proper medical designation concomitant with their injuries as opposed to the current medical designation which assigns a generic “organic psychiatric disorder” classification. Report required within 180 days of enactment.
<b>Restriction on A-76 competitions</b>	No comparable provision.	§301. No study or competition may be begun or announced pursuant to OMB Circular A-76 relating to possible conversion to performance by a contractor of any DOD function carried out at a military medical facility. Report required within 180 days of enactment on public-private competitions carried out at military medical facilities.
<b>Prohibition on transfer of health care funds to meet administrative requirements</b>	No comparable provision.	§302. DOD may not transfer funds or personnel from medical care functions to administrative functions in order to comply with new administrative requirements imposed by this title.
<b>Military pay increase</b>	Title III provides authorization for increasing basic pay for members of the uniformed services by 3.5 percent beginning January 1, 2008. (For additional discussion of pay raise issues, see CRS Report RL33446, <i>Military Pay and Benefits: Key Questions and Answers</i> , by Charles A Henning)	No comparable provision.

## **Summary of Provisions Affecting only the Department of Veterans Affairs**

Most provisions specifically affecting the Department of Veterans Affairs (VA) in H.R. 1538, as passed by the Senate, are found in Title II. However, one provision specifically affecting the VA is found in Title I. H.R. 1538, as passed by the House, includes three provisions that are limited to the VA. All of these provisions are summarized below.

### **H.R. 1538, Passed in Senate, Title I**

#### **Section 126. Medical Care and Services and Support Services for Families of Members of the Armed Forces Recovering from Serious Injuries or Illnesses.**

Section 126 requires the Secretary of Veterans Affairs (VA Secretary) to prescribe in regulations the medical care and counseling services that will be available at VA medical facilities to family members of injured servicemembers.

### **H.R. 1538, Passed in Senate, Title II — Veterans Matters**

#### **Section 201. Sense of Congress**

Section 201 states that it is the sense of Congress that while (VA) is a leader in the field of traumatic brain injury care, more could be done to rehabilitate veterans who have a traumatic brain injury (TBI) with the goals of optimizing the independence of such veterans and eventually reintegrating them into the community. It also acknowledges that the Department of Defense (DOD) and the VA have made efforts to provide a smooth transition of medical care and rehabilitative services to servicemembers as they move from the DOD health care system to the VA health care system. However, it states that more can be done to assist veterans and their families.

#### **Section 202. Individual Rehabilitation and Community Reintegration Plans for Veterans and Others with TBI.**

Section 202 amends chapter 17 of Title 38 United States Code (U.S.C.) and adds a new section.

*Individualized Plan for Rehabilitation and Reintegration.* Requires the VA Secretary to develop an individualized plan for rehabilitation and reintegration into the community for each veteran or servicemember who receives inpatient or outpatient care at the VA for TBI. This plan must be provided in writing to each veteran or servicemember before such individual is discharged from inpatient care at a VA medical facility, or as soon as practicable following diagnosis.

*Contents of Plan.* Requires that each individualized plan for rehabilitation include the following:

(1) rehabilitation objectives for improving the physical, cognitive, and vocational functioning of a veteran or servicemember with a TBI in order that such individual regain independence and reintegrate into the community;

(2) access, as needed, to all appropriate rehabilitative components of the TBI continuum of care;

(3) a description of specific rehabilitative treatments and other services. This description must include the type, frequency, duration, and location of such treatments and services;

(4) the name of the designated case manager responsible for the implementation of the individualized plan; and

(5) the dates on which the effectiveness of the plan will be reviewed.

*Comprehensive Assessment.* Requires the Secretary to develop the individualized plan based upon a comprehensive assessment of the physical, cognitive, vocational, and neuropsychological, and social impairments of the veteran or servicemember. The assessment must also take into consideration the family education and family support needs of such individual after discharge from inpatient care. The assessment will be performed by a team of individuals, with relevant expertise stipulated.

*Case Manager.* Requires the VA Secretary to assign a case manager for each veteran or servicemember with a TBI. The case manager will be responsible for the implementation of the individualized plan, and the coordination of care. The Secretary must ensure that such case manager has specific expertise, either through experience, education, or training, in the care required by the individual to whom such case manager is assigned.

*Participation and Collaboration in Development of Plans.* Requires the Secretary, to the maximum extent practicable, to involve the family members or legal guardian of the veteran or servicemember with a TBI in developing the individualized plan. Section 202 also requires the Secretary to collaborate with a state protection and advocacy system if: the veteran or servicemember covered by such plan requests collaboration; or in the event that the individual is incapacitated, the family or guardian of such individual requests collaboration. If the servicemember is still on active duty the VA Secretary must collaborate with the Secretary of Defense.

*Evaluation.* Requires the VA Secretary to periodically review the effectiveness of each individualized plan and refine it as appropriate after review. The individualized plan must also be reviewed at the request of the veteran with a TBI, or in the case that the veteran is incapacitated, at the request of the guardian or the designee of such veteran.

*State Designated Protection and Advocacy System.* Defines the “State Protection and Advocacy System” as the system established in a state under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42

U.S.C. 15041 et seq.) to protect and advocate for the rights of persons with developmental disabilities.

**Section 203. Use of Non-VA Facilities for Implementation of Rehabilitation and Community Reintegration Plans for Traumatic Brain Injury.**

Section 203 amends chapter 17 of Title 38 U.S.C., and adds a new section. Requires the VA Secretary to provide care in non-VA facilities if the VA is unable to provide care at the frequency or duration prescribed in the individualized plan, for rehabilitation and reintegration, or if the Secretary determines it is optimal for the veteran to receive care in a non-VA facility. Requires the Secretary to enter into contracts with non-VA facilities only if those facilities meet standards established by an independent, accreditation organization that accredits specialized rehabilitation programs for adults with a TBI.

**Section 204. Research, Education, and Clinical Care Program on Severe TBI.**

Section 204 amends chapter 73 of Title 38 U.S.C., and adds a new section. Requires the Secretary to establish a program of research, education, and clinical care that would provide intensive neuro-rehabilitation to veterans with a severe TBI, including veterans in a minimally conscious state who would otherwise receive only long-term residential care. This research program must collaborate with the Defense and Veterans Brain Injury Center and other relevant programs of the federal government.

*Education:* Requires the Secretary to conduct educational programs on recognizing and diagnosing mild and moderate cases of TBI.

*Authorization of Appropriations:* Authorizes \$10 million for the VA for each fiscal year from FY2008 through FY2012, to carry out the research, education, and clinical care programs.

*Report to Congress:* Requires the Secretary to submit a report to Congress not less than 18 months after the enactment of the Act on the research, education, and clinical care program.

**Section 205. Pilot Program on Assisted Living Services for Veterans with TBI.**

*Pilot Program:* Section 205 requires the Secretary to implement within 90 days after the enactment of this Act, a pilot program to assess the effectiveness of providing assisted living services to eligible veterans to enhance the rehabilitation, quality of life, and community integration of such veterans.

*Duration of Program.* The pilot program must be carried out for a period of five years.

*Program Locations.* Requires the Secretary to carry out the pilot program in locations selected by the Secretary. However, at least one program must be located in a Veterans Integrated Service Network (VISN) that has a VA polytrauma center. Other locations must be in areas that contain high concentrations of veterans with

TBI. The Secretary must also give special consideration to rural areas when selecting program locations.

*Provision of Assisted Living Services.* Authorizes the Secretary to enter into agreements for the provision of assisted living services with a provider participating in Medicaid (42 U.S.C. 1396 et seq.). Such assisted living facilities must meet standards prescribed by the Secretary for the purposes of the pilot program.

*Continuation of Case Management and Rehabilitation Services.* Requires the Secretary to continue to provide case management services for veterans participating in the pilot program.

*Report to Committees.* Requires the Secretary to submit a report on the pilot program to the House and Senate Veterans' Affairs Committees. The report must include information about the program, utility of the program, and recommendations regarding the extension or expansion of the program. The report must be submitted not less than 60 days after the completion of the pilot program.

*Authorization of Appropriations.* Authorizes \$8 million for the pilot program for each fiscal year from FY2008 through FY2013.

## **Section 206. Research on Traumatic Brain Injury.**

Section 206 requires the Secretary under existing authorizations (section 3119 of Title 38, U.S.C., relating to rehabilitation research and special projects; section 7303 of Title 38 U.S.C., relating to research programs of the Veterans Health Administration; and section 7327 of Title 38 U.S.C., relating to research, education, and clinical activities on complex multi-trauma associated with combat injuries) to include research on TBI, including research on the sequelae of mild to severe forms of TBI. In conducting such research the Secretary is required to collaborate with facilities that conduct research on rehabilitation for individuals with TBI; and receive grants for such research from the National Institute on Disability and Rehabilitation Research of the Department of Education.

*Report to Committees.* Requires the Secretary to submit a report to the House and Senate Veterans' Affairs Committees on the research program. The report must be submitted not less than 90 days after the enactment of this Act.

## **Section 207. Age-Appropriate Nursing Home Care.**

Section 207 amends section 1710A of Title 38 U.S.C., and adds a new provision that requires the Secretary to provide age-appropriate nursing home care.

## **Section 208. Extension of Period of Eligibility for Health Care for Combat Service in the Persian Gulf War or Future Hostilities.**

Section 208 amends section 1710(e) and extends the period of eligibility to enroll in the VA health care system from two years to five years following the date of their separation. This applies only to veterans with service in a combat theater during or after the Persian Gulf War.

### **Section 209. Mental Health: Service-connection Status and Evaluations for Certain Veterans.**

Section 209 amends section 1702 of Title 38 U.S.C. that pertains to presumption of service-connection, and inserts the term “mental illness” instead of “psychosis.”

Section 209 also requires the Secretary to provide a veteran who served in a period of war after the Persian Gulf War, a preliminary mental health evaluation as soon as practicable, but not later than 30 days after a request for such evaluation.

### **Section 210. Modification of Requirements for Furnishing Outpatient Dental Services to Veterans with a Service-Connected Dental Condition or Disability.**

Section 210 amends Section 1712 of Title 38 U.S.C and extends the eligibility for outpatient dental treatment for a veteran who served on active duty during the Persian Gulf War from 90 days to 180 days after discharge or release.

### **Section 211. Demonstration Program on Preventing Veterans at-risk of Homelessness from Becoming Homeless.**

Section 211 requires the Secretary to carry out a demonstration program to identify members of the Armed Forces on active duty who are at risk of becoming homeless after they are discharged or released from active duty, and to provide referral, counseling, and supportive services, as appropriate, to help prevent them becoming homeless. The demonstration program must be carried out in at least three locations.

*Expiration.* The demonstration program will expire on September 30, 2011.

### **Section 212. Clarification of Purpose of the Outreach Services Program of the Department of Veterans Affairs.**

Section 212 amends section 6301 of Title 38 U.S.C. and includes National Guard and Reserve components among those who are eligible for outreach services.

Section 212 adds a new provision defining the term “outreach” as the act or process of reaching out in a systematic manner proactively to provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws.

## **H.R. 1538, Passed in House, Title II — Studies and Reports**

### **Section 207. Study and Report on Waiting Periods for Appointments at Department of Veterans Affairs Medical Facilities.**

Section 207 requires the VA Secretary to conduct a study on the average length of time, from the desired date for which any veteran seeks to schedule an appointment at a VA medical facility, to the date of completion of the appointment.

The study must focus on appointments scheduled and completed at VA medical facilities located in both rural and urban areas, and must contain recommendations for decreasing the waiting time between the desired date of an appointment and the completion of the appointment to a maximum of 15 days. The Secretary is required to submit this report within 180 days of enactment of this Act.

## **H.R. 1538, Passed in House, Title III**

### **Section 303. Increase in Physicians at Hospitals of the Department of Veterans Affairs.**

Section 303 requires the VA Secretary to increase the number of resident physicians in VA hospitals.

### **Section 304. Veterans Beneficiary Travel Program.**

Section 304 eliminates the current deductible charged to veterans traveling to and from a VA facility or other place for the purpose of examination, treatment, or care. Amends section 111 of Title 38 U.S.C., and requires that the mileage reimbursement rate for veterans traveling to and from a VA facility or other place for the purpose of examination, treatment, or care be based on the mileage reimbursement rate provided to government employees using private vehicles for official business. Stipulates that funds for mileage reimbursement be appropriated separately from other amounts appropriated for the VA.

*Effective Date.* The revised mileage reimbursement rate would apply with respect to travel expenses incurred after 90-days of enactment of this Act.